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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3745 OF 2023

RAHUL BABURAO WAGHCHAURE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Satyajeet P. Dighe for the applicant.

Smt. S. D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 16, 2024.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302, 307, 341, 326, 324, 143, 147, 148, 149, 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 37(1)(3) read with 135 of the Maharashtra Police Act registered on 25.06.2023 vide C.R. No.I-283 of 2023 with Ghoti Police Station, District Nashik.

3. The applicant is the accused No.7. The applicant was arrested on 25.06.2023. On 08.11.2023 this Court passed the following order in respect of the co-accused – Kiran

Sunil Gawali which reads thus :-

"2. This is an application for bail in respect of the offence punishable under Sections 302, 307, 397, 341, 326, 324, 323, 143, 147, 148, 149, 109 of the Indian Penal Code and Sections 37(1)(3) read with 135 of the Maharashtra Police Act registered on 25/06/2023 vide C.R. No.283 of 2023 with Ghoti Police Station.

3. There are in all 14 accused. The applicant is accused No.5. It is the case of the prosecution that the complainant and his friend Afan were travelling to Mumbai from Ahmednagar in a Swift car bearing registration No. MH-02-BJ-6525. The accused followed the Swift car. There was cow meat in the car. The accused, therefore, intercepted the car. The informant and the deceased were dragged out of the car and the accused started assaulting them with wooden logs and iron rods. The deceased - Afan was severely injured on his head and other parts of the body. He succumbed to the injuries.

4. Learned APP opposed the application and submitted that the assault had been serious and the intention of the accused was to kill the victim. So far as the applicant's role is concerned, it is submitted that he has taken an active part in the assault on the victim. It is further submitted that the applicant had assaulted the deceased and injured the victim with kicks. Other accused were armed with iron rods and wooden logs. It is further submitted that there are eyewitnesses to the incident who had seen the applicant taking part in the assault. Learned APP requested that looking at the nature of the accusations, if granted bail the applicant should be imposed a condition of not entering Nashik district till the conclusion of the trial.

5. In the facts and circumstances of the present case, considering the materials, the post-mortem notes and injury certificate of the injured victim, in my opinion, the applicant who was arrested on 25/06/2023 can be enlarged on bail. There are no criminal antecedents reported against the applicant. A wooden rod has been recovered from the applicant but the same is not blood stained. There is no material on record indicating that the applicant assaulted the deceased with the wooden rod. The investigation is complete and the charge-sheet has been

filed. It is alleged that the deceased assaulted by kick blows. Though I am inclined to enlarge the applicant on bail, the same is by imposing some stringent conditions."

4. The role assigned to the present applicant is similar to that of the co-accused - Kiran Sunil Gawali who has been enlarged on bail. There is no recovery at the instance of the present applicant. I am therefore inclined to allow the application for the same reasons as in the order dated 08.11.2023 enlarging the co-accused - Kiran Sunil Gawali on bail.

5. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Rahul Baburao Waghchaure in connection with C.R. No.I-283 of 2023 registered with Ghoti Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Ghoti police station once in a month every

first Monday of the month between 11.00 a.m. and 1.00 p.m.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Nashik District after being released on bail, till further orders of the trial Court.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)